

C:\Users\jason\Documents\4:09CR192 CDP\4:09CR192 CDP - Page 1

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 4:09CR192 CDP
)	
SHAWN WHITE,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before me on defendant's pro se motion for "relief pursuant to F.R.Civ.P. Rule 60(b)(6), 28 U.S.C. 1651, 42 U.S.C. § 2000a-6 and 42 U.S.C. § 2000dd." In his motion, defendant challenges the computation of his sentence. He claims that the Bureau of Prisons has incorrectly computed credit for time served on another federal sentence that was supposed to run concurrently with the sentence he received in the instant case.

The label a prisoner attaches to a motion or petition challenging a judgment or sentence is not determinative. That is this Court is not constrained by the title given to the action by defendant. E.g., United States v. Farley, 971 F. Supp. 184, 185 (E.D. Pa. 1997) (habeas petitioners may not circumvent AEDPA's requirements through creative titling of their petitions).

Because the Court believes that this matter is more properly brought as a motion for relief under 28 U.S.C. § 2241, the Court will deny the instant motion, and

its accompanying motion for appointment of counsel and for hearing, without prejudice, and direct the Clerk of Court to use defendant's motion for relief to open a civil matter for defendant under the auspices of 28 U.S.C. § 2241.

Accordingly,

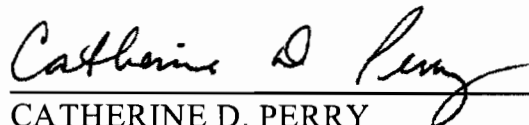
IT IS HEREBY ORDERED that defendant's motion for "relief pursuant to F.R.Civ.P. Rule 60(b)(6), 28 U.S.C. 1651, 42 U.S.C. § 2000a-6 and 42 U.S.C. § 2000dd" is **DENIED** without prejudice.

IT IS FURTHER ORDERED that the Clerk of Court shall copy defendant's motion for "relief pursuant to F.R.Civ.P. Rule 60(b)(6), 28 U.S.C. 1651, 42 U.S.C. § 2000a-6 and 42 U.S.C. § 2000dd" and use it to open a civil matter under the auspices of 28 U.S.C. § 2241.

IT IS FURTHER ORDERED that defendant's motion for appointment of counsel is **DENIED** without prejudice.

IT IS FURTHER ORDERED that defendant's motion for hearing is **DENIED** without prejudice.

Dated this 8th day of March, 2013.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE